

**UNITED STATES DISTRICT
COURT WESTERN DISTRICT OF
TEXAS AUSTIN DIVISION**

OCHUKO SYLVESTER ERUOTOR,

v.

UNITED STATES OF AMERICA,

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CAUSE NO. 1:16-CR-347(3)-SS

**GOVERNMENT’S RESPONSE TO DEFENDANT’S MOTION FOR
RETURN OF PROPERTY**

Comes now the United States of America, by and through the United States Attorney for the Western District of Texas, and the undersigned Assistant United States Attorney, and files this response to OCHUKO SYLVESTER ERUOTOR’s Motion for Return of Seized Property.

The Defendant was arrested pursuant to an Interpol Red Notice while transiting through Germany. He was encountered by German law enforcement, who seized whatever property he had on his person. Eruotor was detained in Germany, appointed counsel there, and then went through a German extradition process, including several legal hearings in Germany. Eruotor was then extradited to the United States. Eruotor claims in his motion that his passport was given to “United States Secret Service agents” once Eruotor arrived in Austin. The Secret Service played no role in the investigation or prosecution of this case.

Due to the current COVID-19 pandemic, the Government and its law enforcement agents are working remotely from home. However, the Government was able to access the discovery and law enforcement reports in this case. After a thorough review of those materials, the

Government found a property receipt from when Eruotor arrived into the United States indicating that the Department of Homeland Security (DHS), Homeland Security Investigations (HSI), took possession of his passport. The law enforcement agent who took possession of the passport was contacted by the HSI case agent. To the best of his recollection, the passport was placed into Eruotor's DHS Alien File (also known as an "A-file"). Due to the current COVID-19 pandemic, it may take more time than normal to verify its location in the A-file (which is maintained by DHS-Immigration and Customs Enforcement). The passport was placed into the A-File because Mr. Eruotor has no legal status in the United States and is slated to be deported at the conclusion of his term of imprisonment. His passport will be used by DHS immigration authorities in order to effect his deportation after his term of imprisonment. At his deportation, Mr. Eruotor will be given his passport.

Oddly enough, Mr. Eruotor's request is not that the property be returned to him. Which is understandable since he is currently incarcerated at a federal penitentiary. Instead, in his motion, Mr. Eruotor asks that the Government transfer his property from one Government entity (he erroneously refers to the Secret Service) and send the property to a Bureau of Prisons counselor.

The Government was contacted by Mr. Steve Toland, an attorney in Austin, after Mr. Eruotor was sentenced. Mr. Toland informed the Government that he was representing Mr. Eruotor while Mr. Eruotor was imprisoned, based on his continued communications with law enforcement. Once the current pandemic situation has abated, the Government will work with Mr. Toland to make the passport available to Mr. Toland for his inspection. However, absent a Court Order, it is the Government's intention to follow standard DHS protocol and allow the passport to be maintained by the relevant DHS authorities who will handle Mr. Eruotor's deportation.

CONCLUSION

Eruotor's Motion for Return of Property should be denied.

Respectfully submitted,

JOHN F. BASH
UNITED STATES ATTORNEY

/s/ Michael C. Galdo
MICHAEL GALDO
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2020, a copy of the Government's response to Eruotor's motion to revoke the detention order was filed via the CM/ECF system and a copy was sent to Steve Toland, attorney for the Defendant. As soon as the Government has access to its offices and the ability to send items via mail, a hard copy will be sent to:

Ochuko Sylvester Eruotor
BOP# 98555-380
Rivers Correctional Institution
PO Box 360
Winton, NC 27986

/s/ Michael C. Galdo
MICHAEL GALDO
Assistant U.S. Attorney

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ORDER

BE IT REMEMBERED on this day, the Court reviewed the Motion for Return of Property filed by the above-named Defendant and the Response filed by the United States, and thereafter, enters the following:

IT IS ORDERED that the Motion for Return of Property by OCHUKO SYLVESTER ERUOTOR IS **DENIED**.

SIGNED this the _____ day of _____, 2020.

Honorable Sam Sparks
UNITED STATES DISTRICT JUDGE